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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,140	07/17/2003	Hagen Eck	13905-012001 / 2002P00235	5206
32864	7590	05/04/2005	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			SAADAT, CAMERON	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/623,140

Applicant(s)

ECK ET AL.

Examiner

Cameron Saadat

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/27/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/04; 5/24/04; 8/10/04; 9/27/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22 are rejected under 35 U.S.C. 101. The language of claims raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Mere ideas in the abstract that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. *See In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed Cir. 1994).

As to technological arts recited in the preambles of claims 1 and 11, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above with the exception of the recitation in the preamble that the method is "computerized". Looking at the claim as a whole, nothing the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al. (USPN 5,727,950; hereinafter Cook).

Regarding claims 1 and 11, Cook discloses a computer-implemented method, comprising the steps of: defining a curriculum type that includes one or more curriculum type elements, the curriculum type being a template for a curriculum; and defining a curriculum based on the defined curriculum type by selecting one or more curriculum elements for each of one or more of the curriculum type elements (Col. 30, lines 4-7).

Regarding claims 2 and 12, Cook discloses a method wherein defining a curriculum type includes receiving user input specifying metadata for the curriculum type (Col. 32, lines 28-34).

Regarding claims 3 and 13, Cook discloses a method wherein the metadata specifies prerequisites for the curriculum type (Col. 32, lines 28-34).

Regarding claims 4 and 14, Cook discloses a method wherein the metadata specifies a capacity for the curriculum type (Col. 32, lines 28-34).

Regarding claims 5 and 15, Cook discloses a method wherein the metadata specifies target participants for the curriculum type (Col. 11, lines 49-50).

Regarding claims 6 and 16, Cook discloses a method wherein defining a curriculum type includes using the metadata to check the consistency of the curriculum type (Col. 32, lines 45-59; Col. 33, lines 40-47).

Regarding claims 7 and 17, Cook discloses a method wherein the selected curriculum elements include different types of training courses (Col. 9, lines 55-62).

Regarding claims 8 and 18, Cook discloses a method wherein the different types of training courses include web-based training (Col. 21, line 58), classroom training (Col. 19, lines 13-17), and on-the-job training (Col. 7, line 45).

Regarding claims 9 and 19, Cook discloses a method wherein defining a curriculum based on the defined curriculum type includes generating a list of training courses that match a particular curriculum type element of the defined curriculum type and receiving user input selecting a training course from the list (Col. 32, lines 10-14; 19-21).

Regarding claims 10 and 20, Cook discloses a method wherein generating the list includes receiving user input specifying selection criteria for the list and generating the list based on identifying training courses that match the selection criteria (Col. 32, lines 10-14; 19-21).

Regarding claim 21, Cook discloses a system for curriculum management, the system comprising: a back-end component that is operable to: define a curriculum type that includes one or more curriculum type elements, the curriculum type being a blueprint for a curriculum; and define a curriculum based on the defined curriculum type by selecting one or more curriculum elements for each of one or more of the curriculum type elements; and a front-end component in communication with the back-end component, the front end component being operable to register a participant in a curriculum (Col. 30, lines 1-7; Col. 32, lines 10-58).

Regarding claim 22, Cook discloses a system wherein the back-end component and the front-end component each have a separate user interface (Col. 23, line 28; Col. 31, line 21).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is (571) 272-4443. The examiner can normally be reached on M-F 9:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JOHN M. HOTALING, II
PRIMARY EXAMINER